

Appl. No. 10/619,778
Amdt. dated 06/07/2006
Reply to Office action of 03/22/2006

Remarks

Double Patenting:

Claims 35-46 have been rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 1-12 of U.S. Patent No. 6,330,351. With this Response, Applicants have filed a terminal disclaimer to overcome the rejection.

Claims 35-46 have been provisionally rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 1-18 and 27-35 of copending Application No. 10/083,456. With this Response, Applicants have filed a terminal disclaimer to overcome the rejection.

Rejection of the claims under 35 USC §112:

Claims 39-41 and 44-46 have been rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that there is no antecedent basis for the term "labile linkage". Applicants have amended the claims to obviate the rejections. Specifically, Applicants have amended claim 1 to recite that the membrane activity inhibitor is attached to the membrane active peptide via a labile linkage. Similarly, Applicants have amended claim 43 to recite that the membrane activity inhibitor is attached to the membrane active polymer via a labile linkage.


Objections to the Claims:

Claims 41 and 46 have been objected to under 37 C.F.R. 1.75(c) for failing to further limit the subject matter of the claims from which they depend. Applicants have amended claims 41 and 46 to depend from claims 35 and 43, respectively, to obviate the rejection.

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The Examiner's objections and rejections are now believed to be overcome by this response to the Office Action. In view of Applicants' amendment and arguments, it is submitted that claims 35-46 should be allowable.

Respectfully submitted,


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I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as express mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this date: June 7, 2006


Kirk Ekena